

SENATE BILL 2423
By Williams

AN ACT to enact the "Tennessee Governmental Ethics and Disclosure Act of 2006" and to amend Tennessee Code Annotated, Title 2; Title 3; Title 4; Title 8 and Title 67.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. The title of this act is, and may be cited as the "Tennessee Governmental Ethics and Disclosure Act of 2006".

SECTION 2. Tennessee Code Annotated, Section 2-10-105, is amended by deleting the section in its entirety and by substituting instead the following new section:

§ 2-10-105.

(a) Each candidate for state public office or political campaign committee in a state election shall file with the registry of election finance a statement of all contributions received and all expenditures made by or on behalf of such candidate or such committee. The statement of each candidate for state public office shall include the date of the receipt of each contribution and the statement of a political campaign committee in a state election shall include the date of each expenditure which is a contribution to a candidate. Each candidate for the office of member of the general assembly and each political campaign committee for such candidate shall file a copy of such statement with the county election commission in the county of which the candidate is a resident.

(b) Each candidate for local public office or political campaign committee for a local election shall file with each county election commission of the county where the election is held a statement of all contributions received and all expenditures made by or on behalf of such candidate or such committee. The statement of each candidate for

local public office shall include the date of the receipt of each contribution and the statement of a political campaign committee for a local election shall include the date of each expenditure which is a contribution to a candidate.

(c) The statements required by subsections (a) and (b) of each candidate, each single candidate political campaign committee or single measure political campaign committee shall be filed in the following manner:

(1) Statements for any primary election or referendum:

(A) From and including the day that the first contribution was received or the first expenditure made, whichever was earlier, through the tenth day before early voting begins for any such election or referendum shall be filed not later than seven (7) days before early voting begins for such election;

(B) From the last day of the prior report through the tenth day before the primary election or referendum shall be filed not later than seven (7) days before the election; and

(C) Filed subsequent to a semi-annual report described in subdivision (c)(5) shall commence the day after the period covered by such semi-annual report.

Each independent candidate for a state or local public office, which office has a primary election, shall file all primary reports required by this subsection (c), even though such independent candidate is not included on the ballot in such primary election;

(2) Statements for any special or general election or referendum:

(A) From and including the day that the first contribution was received or the first expenditure made whichever was earlier; or

(B) From the last day included in any prior report, whichever is later, through the tenth day before early voting begins for any such election or referendum shall be filed, not later than seven (7) days before early voting begins for the election; and

(C) From the last day included in any prior report through the tenth day before any such election or referendum shall be filed, not later than seven (7) days before the election;

(3) Statements for any runoff election, from the last day included in any prior report through the tenth day before early voting begins for any such election shall be filed, not later than seven (7) days before early voting begins for the election; statements from the last day included in any prior report through the tenth day before any such election shall be filed, not later than seven (7) days before the election;

(4) Statements from the last day of the prior report through the forty-fifth day after the primary, general, special or runoff election or referendum shall be filed not later than forty-eight (48) days after the election. When no subsequent report is required by this section or § 2-10-106 because such statement has a zero (\$0) balance of contributions and expenditures, such statement shall be the final statement;

(5) Any candidate or political campaign committee filing a statement pursuant to subsection (e), more than one (1) year before the election in which the candidate or committee expects to be involved, shall file reports with the registry of election finance or the county election commission, whichever is required by subsections (a) and (b), by January 31 and June 30 immediately succeeding the filing, and semi-annually thereafter through the year of the

election. If January 31 or June 30 falls on a Saturday, a Sunday, or a legal holiday, the provisions of § 1-3-102 shall apply. The ending date of the January 31 reporting period is January 15. The ending date of the June 30 reporting period is June 15. A semi-annual report is not required to be made if the reporting date is within sixty (60) days of a report otherwise required by this part;

(6) Any candidate or political campaign committee which certifies the name and address of the candidate's or committee's political treasurer to the registry of election finance or the county election commission less than one (1) year before the election in which the candidate or committee expects to be involved but prior to December 31 shall be required to file the initial reports required by this section pursuant to the provisions of subdivision (c)(5); and

(7) Any candidate or political campaign committee which certifies the name and address of the candidate's or committee's political treasurer to the registry of election finance or the county election commission after December 31 shall be required to file the initial reports required by this section with the registry of election finance or the county election commission within ten (10) days following the qualifying deadline.

(d) Each multicandidate political campaign committee shall file reports according to § 2-10-107 quarterly, within ten (10) days following the first day of January, April, July and October respectively. Each report shall include transactions occurring since the preceding report.

(e) Each candidate and each political campaign committee shall certify the name and address of the candidate's or committee's political treasurer to the registry of election finance and/or the county election commission, where appropriate, before the candidate or committee may receive a contribution or make an expenditure in a state or

local election. A state public officeholder shall also certify the name and address of such officeholder's political treasurer to the registry of election finance before the officeholder or the officeholder's political committee may accept a contribution to defray the expenses incurred in connection with the performance of the officeholder's duties or responsibilities, and a local officeholder shall so certify the name and address of such officeholder's treasurer to the appropriate county election commission. A candidate may serve as that candidate's own political treasurer. A candidate or political campaign committee shall notify the registry of election finance or county election commission of any changes in the office of its political treasurer. Any such statements filed pursuant to this part shall be cosigned by the candidate, if such candidate appoints a political treasurer other than the candidate.

(f) All records used by the candidate or political campaign committee to complete a statement required by this part shall be retained by the candidate or political campaign committee for at least two (2) years after the date of the election to which the records refer.

(g) Separate reporting shall be required for both primary elections and general elections. Cumulative reporting for both primary and general elections for the same office in the same year is expressly prohibited. An appointment of a political treasurer pursuant to subsection (e) may be cumulative, and one (1) such appointment shall be sufficient for both a primary and general election for the same office in the same year. A successful primary candidate shall not be required to certify a political treasurer for the general election if the candidate had previously certified such political treasurer prior to the primary election.

(h) During the period beginning at twelve o'clock (12:00) midnight of the tenth day prior to a primary, general, runoff or special election or a referendum and extending

through twelve o'clock (12:00) midnight of such election or referendum day, each candidate or political campaign committee shall electronically file a report with the registry of election finance or file a report by telegram, facsimile machine, hand delivery or overnight mail delivery with the county election commission, as required by the provisions of subsection (a) or (b), which includes the following information:

(1) (A) The full name and address of each person from whom the candidate or committee has received and accepted a contribution, loan or transfer of funds during such period and the date of the receipt of each contribution in excess of the following amounts: a committee participating in the election of a candidate for any state public office, five thousand dollars (\$5,000); or, a committee participating in the election of a candidate for any local public office, two thousand five hundred dollars (\$2,500). If the committee is participating in the election of candidates for offices with different reporting amounts, the amount shall be the lowest for any candidate in whose election the committee is participating or in which any committee is participating to which it makes or from which it receives a transfer of funds; and

(B) Such report shall include the amount and date of each such contribution or loan reported, and a brief description and valuation of each in-kind contribution. If a loan is reported, the report shall contain the name and address of the lender, of the recipient of the proceeds of the loan, and of any person who makes any type of security agreement binding such person or such person's property, directly or indirectly, for the repayment of all or any part of the loan.

(2)

(A) Each electronic report required by this subsection (h) shall be filed within twenty-four (24) hours after the time the contribution or loan is received.

(B) Reports not required to be electronically filed shall be filed within seventy-two (72) hours after the time the contribution or loan is received. If such time falls other than during regular working hours, the report shall be filed after the opening of the office of the registry of election finance or the county election commission, whichever is required by subsections (a) and (b), on the next working day after the time at which the report is otherwise due.

(3) The registry shall develop appropriate forms for the report required by this subsection (h) and make such forms available to the candidates and the county election commissions.

(i) Any state or local political party or caucus of such political party established by members of either house of the general assembly that controls or operates one (1) or more political campaign committees shall report all receipts and disbursements by the party in the same manner and at the same time that it reports contributions and expenditures by the party's political campaign committee.

(j) Reports filed under this section shall not be cumulative. Each report shall reflect the total for its own reporting period.

SECTION 3. Tennessee Code Annotated, Section 2-10-107, is amended by deleting the section in its entirety and by substituting instead the following new section:

§ 2-10-107.

(a) A statement filed under § 2-10-105 or § 2-10-106 shall consist of either:

(1) A statement that neither the contributions received nor the expenditures made during the period for which the statement is submitted exceeded one thousand dollars (\$1,000). Any statement filed pursuant to § 2-10-106 shall indicate whether an unexpended balance of contributions, continuing debts and obligations or an expenditure deficit exists; or

(2) A statement setting forth:

(A) Under contributions, a list of all the contributions received, as follows:

(i) The statement shall list the:

- (a) Full name;
- (b) Complete address;
- (c) Occupation; and
- (d) Employer

of each person who contributed a total amount of more than one hundred dollars (\$100) during the period for which the statement is submitted, and the amount contributed by that person. The statement of each candidate shall include the date of the receipt of each contribution and the statement of a political campaign committee shall include the date of each expenditure which is a contribution to a candidate; and

(ii) The statement shall list as a single item the total amount of contributions of one hundred dollars (\$100) or less; and

(B) Under expenditures, a list of all expenditures made as follows:

(i) The statement shall list the full name and address of each person to whom a total amount of more than one hundred dollars (\$100) was paid during the period for which the statement

is submitted, the total amount paid to that person, and the purpose thereof which shall clearly identify that it is an allowable expenditure under § 2-10-114. The words "reimbursement", "credit card purchase", "miscellaneous", "other" and "campaign expense" shall not be considered acceptable descriptions for "purpose". Any purchase made with a credit card shall be disclosed as a payment to the vendor providing the item or service and the name of the vendor and the item or service shall be listed on the statement. Credit card payments to separate vendors shall be disclosed as separate expenditures; and

(ii) The statement shall list the total amount of expenditures of one hundred dollars (\$100) or less each, by category, without showing the exact amount of or vouching for each such expenditure.

(b) When any candidate or political campaign committee desires to close out a campaign account, it may file a statement to such effect at any time; provided, that the statement shall on its face show no unexpended balance, continuing debts or obligations or deficit.

(c)

(1) When filing a statement under § 2-10-105 or § 2-10-106, a contribution, as defined in § 2-10-102, for which no monetary consideration is paid or promised, hereinafter referred to as an "in-kind contribution," shall be listed separately in the disclosure statement and excluded from the lists of contributions and expenditures. The "in-kind contribution" list shall include:

(A) In-kind contributions of one hundred dollars (\$100) or less may be listed as a single item; and

(B) In-kind contributions of more than one hundred dollars (\$100) during the period for which the statement is submitted, and for each such contribution, the name and address of each person who contributed it.

The statement of each candidate shall include the date of the receipt of each in-kind contribution and the statement of a political campaign committee shall include the date of each expenditure which is an in-kind contribution to a candidate.

(2) Within ninety (90) days of July 1, 1991, by rule promulgated in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, the registry of election finance shall enumerate a nonexclusive listing of examples of the various categories of contributions which constitute "in-kind contributions" requiring disclosure. Upon promulgating such rule, the registry shall provide a copy of such rule to each member of the general assembly.

(d) An in-kind contribution is deemed to be made and shall be reportable in the period when such contribution is made or performed and not when the cost is billed or paid. The actual cost of the in-kind contribution, if known, shall be reported in the period such contribution is made or performed. If the actual cost of the in-kind contribution is not known, an estimate of the cost shall be reported in the period such contribution is made or performed, and the report shall indicate that the amount reported is estimated. If the actual cost, as indicated on the bill, is different from the amount reported, such amount shall be amended or adjusted on a later report covering the period in which payment is made.

(e) A statement filed under § 2-10-105 or § 2-10-106 shall also list any unexpended balance, any deficit and any continuing financial obligations of the candidate, campaign or committee.

(f) Payments to a person as reimbursement for expenditures made by the person on behalf of the candidate or committee shall be disclosed as payments to the vendor who provided the item or service to the candidate or committee not the person who is reimbursed.

SECTION 4. Tennessee Code Annotated, Section 2-10-110, is amended by deleting the section in its entirety and by substituting instead the following new section:

§ 2-10-110.

(a) The registry of election finance or a county administrator of elections may impose a civil penalty for a violation of this part or § 2-10-211 as provided in this section. The administrator may only assess penalties for violations for Class 1 offenses as established in this section.

(1) "Class 1 offense" means the late filing of any report or statement required by this part. A Class 1 offense shall be punishable by a civil penalty of not more than twenty-five dollars (\$25.00) a day up to a maximum of seven hundred fifty dollars (\$750).

(A) For local public offices, the administrator shall have personally served upon, or send by return receipt requested mail, an assessment letter to any candidate or committee upon the administrator's discovery that a due report has not been filed. A civil penalty of twenty-five dollars (\$25.00) a day shall begin to accrue five (5) days after personal service or receipt of the letter and will continue to accrue until the report is filed or for thirty (30) days, whichever occurs first.

(B) For local public offices, the administrator may accept only a check, bank draft or other written instrument as payment for any penalty imposed. The administrator shall forward such payment to the registry of election finance within three (3) business days of its receipt. If any accrued civil penalty is not paid within thirty (30) days after service of process or receipt of notice by registered or certified mail of an assessment, the administrator shall not accept any tendered payment and shall send the case to the registry of election finance for disposition. The administrator shall accept any late report offered for filing by the candidate or committee at any time, noting thereon the date of its filing. The administrator shall notify the registry of election finance that the late report has been filed and on what date it was filed.

(C) The administrator shall notify the registry of election finance of any Class 2 violation of which the administrator has knowledge.

(D) To request a waiver, reduction or to in any way contest a penalty imposed by an administrator, a candidate for a local public office shall file a petition with the registry of election finance.

(E) For state public offices, the registry of election finance shall have personally served upon, or send by return receipt requested mail, an assessment letter to any candidate or committee upon the registry or its appropriate staff discovering that a due report has not been filed. A civil penalty of twenty-five dollars (\$25.00) a day shall begin to accrue five (5) days after personal service or receipt of the letter and will continue to accrue until the report is filed or for thirty (30) days, whichever occurs first.

(F) For any Class 2 offense, the registry of election finance through its appropriate staff shall send an assessment letter to a candidate or committee in a form sufficient to advise the candidate or committee of the factual basis of the violation, the maximum penalty and the date a response to the letter must be filed. If a disclosure report is returned to a candidate or committee for correction, a copy of the original shall be retained on file until the corrected report is returned to the registry of election finance. If the original filing was in compliance with the intent of the law and minor errors are corrected within the date set for a response, no penalty shall be assessed.

(G) To request a waiver, reduction or to in any way contest a penalty imposed by the staff of the registry of election finance, a candidate for a state public office shall file a petition with the registry of election finance. Such petition may be considered as a contested case proceeding under the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

(2) "Class 2 offense" means failing to file a report required by this part within thirty-five (35) days after service of process or receipt of notice by registered or certified mail of an assessment or any other violation of the requirements of this part. A Class 2 offense is punishable by a maximum penalty of not more than ten thousand dollars (\$10,000) or fifteen percent (15%) of the amount in controversy, if fifteen percent (15%) of the amount in controversy is greater than ten thousand dollars (\$10,000).

(A) For state and local public offices, the registry of election finance may impose a civil penalty for any Class 2 offense.

(B) To request a waiver, reduction or to in any way contest a penalty imposed by the registry of election finance, a candidate for a local public office shall file a petition with the registry of election finance. Such petition may be considered as a contested case proceeding under the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

(C) "Amount in controversy" means, as appropriate to the case, the greater of the total expenditures or total contributions either of which or both of which are shown on a late report subsequently filed, or the amount of an expenditure or contribution which was not reported or was incorrectly reported.

(b) Penalties imposed under this part shall be deposited into the state general fund.

(c)

(1) The registry of election finance shall maintain a register of all civil penalties imposed under this part and remaining unpaid.

(2) If a civil penalty lawfully assessed and any lawfully assessed cost attendant thereto are not paid within thirty (30) days after the assessment becomes final, the candidate owing such civil penalty shall be ineligible to qualify for election to any state or local public office until such penalty and costs are paid.

(3) If a civil penalty authorized by this section is imposed, it shall be considered as a personal judgment against the candidate.

(d) A candidate for state or local public office who fails to file any statement or report required by this part shall be ineligible to qualify for election to any state or local

public office until such statement or report is filed with the registry and/or the appropriate county election commission.

(e) It is the intent of the general assembly that the sanctions provided in this section shall be the civil penalties enacted into law by Acts 1989, ch. 585.

(f)

(1) For any civil penalty levied by the registry against a multicandidate political campaign committee under this section or § 2-10-308, the treasurer of such committee is personally liable for such penalty.

(2) If a civil penalty lawfully assessed and any lawfully assessed cost attendant thereto are not paid within thirty (30) days after the assessment becomes final, the multicandidate political campaign committee owing such civil penalty shall be prohibited from receiving contributions and making expenditures to support or oppose candidates until such penalty and all costs attendant thereto are paid in full.

SECTION 5. Tennessee Code Annotated, Section 2-10-114, is amended by deleting subsection (b) in its entirety and by substituting instead the following:

(b)

(1) Except as provided in subsection (a), no candidate for public office shall use any campaign funds either prior to, during or after an election for such candidate's own personal use. For the purpose of this section, "personal use" is defined as any use of funds in a campaign account of a present or former candidate to fulfill a commitment, obligation or expense of any person that would exist irrespective of the candidate's campaign or duties as an officeholder and for which the candidate for public office or elected public official would be required to treat the amount of the expenditure as gross income under § 61 of the Internal

Revenue Code of 1986, 26 U.S.C. § 61, or any subsequent corresponding Internal Revenue Code of the United States, as from time to time amended.

(2) "Personal use" includes but is not limited to the use of funds in a campaign account for any of the following:

(A) Household food items or supplies;

(B) Funeral, cremation, or burial expenses except those incurred for a candidate or an employee or volunteer of a candidate committee whose death arises out of or in the course of, campaign activity;

(C) Clothing, other than items of de minimis value that are used in the campaign, such as campaign "T-shirts" or caps with campaign slogans;

(D) Tuition payments, other than those associated with training campaign staff;

(E) Mortgage, rent or utility payments:

(i) For any part of any personal residence of the candidate or a member of the candidate's family; or

(ii) For real or personal property that is owned by the candidate or a member of the candidate's family and used for campaign purposes, to the extent the payments exceed the fair market value of the property usage;

(F) Admission to a sporting event, concert, theater, or other form of entertainment, unless part of a specific campaign or officeholder activity;

(G) Dues, fees, or gratuities at a country club, health club, recreational facility, or nonpolitical organization unless they are part of a specific fundraising event that takes place on the organization's premises;

(H) Salary payments to a member of a candidate's family, unless the family member is providing bona fide services to the campaign. If a family member provides bona fide services to a campaign, any salary payment in excess of the fair market value of the services provided is a prohibited use; or

(I) A vacation.

(3) The registry shall determine on a case by case basis whether other uses of funds fulfill a commitment, obligation or expense that would exist irrespective of the candidate's campaign or duties as an officeholder, and therefore are personal use.

(4) A violation of this subsection (b) is a Class 2 offense as defined in § 2-10-110(a)(2).

SECTION 6. Tennessee Code Annotated, Section 2-10-206, is amended by deleting the section in its entirety and by substituting instead the following new section:

§ 2-10-206.

(a) The duties of the registry include the following:

(1) Develop prescribed forms for statements that are required to be filed under the above laws with the objective of making the disclosure statements as simple and understandable as possible for both the person filing the disclosure statement and the average citizen of the state of Tennessee;

(2) Develop a filing, coding and cross-indexing system;

(3) Make each report filed available for public inspection and copying during regular office hours at the expense of any person requesting copies of the same;

(4) Review all filed statements to ensure compliance with the respective disclosure laws;

(5) Prepare and publish a manual for all candidates and committees, describing the requirements of the law, including uniform methods of bookkeeping and reporting and requirements as to reporting dates and the length of time that candidates and committees are required to keep any records pursuant to the provisions of this part;

(6) Provide an annual report to the governor and the general assembly concerning the administration and enforcement of the disclosure law;

(7) Investigate any alleged violation upon sworn complaint or upon its own motion. If the registry investigates the records of any selected candidate, it may also investigate the records of all other candidates running for the same position in the same district or other appropriate geographic area;

(8) Preserve all reports or statements for five (5) years from the date of filing;

(9) Notify all candidates for state public office in a state election of the requirements for filing any required disclosure statement fourteen (14) days before any fixed deadline provided; and

(10) Perform audits, crosschecks and other appropriate investigatory techniques to ensure compliance and to detect violations.

(b) The registry shall notify each member of the general assembly by sending notice to the member's home address and the member's legislative office address in Nashville.

SECTION 7. Tennessee Code Annotated, Section 2-10-207, is amended by deleting the section in its entirety and by substituting instead the following new section:

§ 2-10-207.

The registry has the following powers:

(1) Promulgate such rules and regulations pursuant to the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, as are necessary to implement the provisions of this chapter;

(2) Hold hearings, conduct audits, subpoena witnesses, administer oaths, and compel production of books, correspondence, papers and other records;

(3) Issue written advisory opinions to candidates concerning compliance with this chapter. A candidate may rely upon such opinion without threat of sanction with respect to the issue addressed by the opinion if the candidate conforms such candidate's conduct to the requirements of the advisory opinion;

(4) In determining whether an actual violation has occurred, conduct a contested case hearing pursuant to the Uniform Administrative Procedures Act, compiled in title 4, chapter 5;

(5) Issue an appropriate order following such a determination;

(6) Assess a late filing fee of twenty-five dollars (\$25.00) per day up to a maximum total penalty of seven hundred fifty dollars (\$750) for candidates and campaign committees and ten thousand dollars (\$10,000) for lobbyists;

(7) Assess a civil penalty for any violation of the disclosure laws as provided by this part. Such civil penalties may be assessed for any violation of the Campaign Financial Disclosure Law, compiled in part 1 of this chapter, the Lobbying Reform Act of 2006, compiled

in title 3, chapter 6, the Conflict of Interest Disclosure Law, compiled in title 8, chapter 50, part 5 and the Campaign Contribution Limits Law, compiled in part 3 of this chapter; provided, that the registry shall only have the power to assess a civil penalty after notice and opportunity for a hearing; and

(8) Where the results of its investigation indicate a criminal act may have occurred, the registry may refer the matter to the district attorney general of the district where the alleged criminal act may have occurred for criminal prosecution.

SECTION 8. Tennessee Code Annotated, Section 2-10-211, is amended by deleting the section in its entirety and by substituting instead the following new section:

§ 2-10-211.

(a) The registry of election finance, notwithstanding any other provision of the law to the contrary, shall do all of the following:

(1) Develop, with the advice, assistance and approval of the office of information resources, an Internet-based electronic filing process for use by all candidates for state public office and all political campaign committees that are required to file statements and reports with the registry of election finance;

(2) Develop, with the advice, assistance and approval of the office of information resources, a system that provides each candidate and campaign committee with secure access to the electronic filing system. The system shall provide safeguards against efforts to tamper with or change the data in any way;

(3) Provide training to candidates and campaign committees on the use of the electronic filing system;

(4) Develop, with the advice, assistance and approval of the office of information resources, a system that will forward a copy of any candidate's report

filed electronically with the registry of election finance to the appropriate local county election commission as required in § 2-10-105(a); and

(5) Beginning with the 2004 regular August election, with the advice, assistance and approval of the office of information resources, provide to the public access to a list of campaign contributions made to candidates and a list of expenditures made by those candidates by posting such list on the Internet. In addition, the registry shall provide assistance to anyone seeking to access this information on the Internet. Campaign contribution lists shall not be made available on the Internet until the lists for each candidate running for the same office are available and such lists shall be made available on the Internet as simultaneously as is practicable. However, a candidate may authorize the registry to post such candidate's contribution list regardless of whether the other candidates running for the same office have filed their lists. If a candidate has not timely filed campaign contribution lists, then the registry shall post on the Internet that the candidate's statement is delinquent.

(b) The registry of election finance, once the development of the electronic filing system is completed and tested, shall provide public notice that the system is operational and available for filers to commence use.

(c) The registry of election finance shall, and with the advice, assistance and approval of the office of information resources, implement the electronic filing system for use in the 2004 regular August election and all subsequent state elections. Candidates for state public offices and campaign committees may commence electronic filing for any state election beginning in the year 2004, after notice has been given pursuant to subsection (b), and may continue to file electronically all reports for any subsequent state elections. Beginning in July 2006, candidates for state public offices and campaign

committees, who have contributions or expenditures in excess of one thousand dollars (\$1,000), shall file electronically all reports for any subsequent state elections. Failure to timely file reports electronically may be penalized as provided in § 2-10-110.

(d) All information entered by any candidate or campaign committee into the electronic filing system shall remain confidential until the information is filed with the registry of election finance.

(e) All available information regarding candidate statements on the registry's Web site shall be in a searchable database that can be downloaded and managed with appropriate software.

SECTION 9. Tennessee Code Annotated, Section 2-10-302, is amended by deleting the section in its entirety and by substituting instead the following new section:

§ 2-10-302.

(a) No person shall make contributions to any candidate with respect to any election which, in the aggregate, exceed:

(1) For an office elected by statewide election, two thousand five hundred dollars (\$2,500);

(2) For a state legislative office, two thousand five hundred dollars (\$2,500); or

(3) For any other state or local public office, two thousand five hundred dollars (\$2,500).

(b) No multicandidate political campaign committee shall make contributions to any candidate with respect to any election which, in the aggregate, exceed:

(1) For an office elected by statewide election or the senate, seven thousand five hundred dollars (\$7,500); and

(2) For any other state or local public office, five thousand dollars (\$5,000).

(c) With respect to contributions from multicandidate political campaign committees for each election:

(1) No candidate for an office elected by statewide election shall accept in the aggregate more than fifty percent (50%) of the candidate's total contributions from multicandidate political campaign committees; and

(2) No candidate for any other state or local public office shall accept in the aggregate more than seventy-five thousand dollars (\$75,000) from multicandidate political campaign committees.

In determining the aggregate limits established by this subsection (c), contributions made to a candidate by a committee controlled by a political party on the national, state, or local level or by a caucus of such political party established by members of either house of the general assembly are not included.

(d) The dollar amounts established by this section shall be increased to reflect the percentage of change in the average consumer price index (all items-city average) as published by the United States Department of Labor, Bureau of Labor statistics, on January 1 of every even-numbered year starting in January 2008. Such amount shall be increased to the nearest hundred dollar amount and the registry of election finance shall publish the increased amounts on its Web site.

SECTION 10. Tennessee Code Annotated, Title 2, Chapter 10, Part 3, is amended by adding the following as a new, appropriately designated section thereto:

§ 2-10-3__.

(a) No person shall make contributions to any multicandidate political campaign committee with respect to any election which, in the aggregate, exceeds five thousand dollars (\$5,000).

(b) No multicandidate political campaign committee shall make contributions to any other multicandidate political campaign committee with respect to any election which, in the aggregate, exceeds five thousand dollars (\$5,000).

(c) In determining the aggregate limits established by this section, contributions made to a committee controlled by a political party on the national, state, or local level or by a caucus of such political party established by members of either house of the general assembly are not included.

(d) The dollar amounts established by this section shall be increased to reflect the percentage of change in the average consumer price index (all items-city average) as published by the United States Department of Labor, Bureau of Labor statistics, on January 1 of every even-numbered year starting in January 2008. Such amount shall be increased to the nearest hundred dollar amount and the registry of election finance shall publish the increased amounts on its Web site.

SECTION 11. Tennessee Code Annotated, Title 2, Chapter 10, Part 3, is amended by adding the following as a new, appropriately designated section thereto:

§ 2-10-3__.

No person or multicandidate political campaign committee shall contribute more than a total of two hundred thousand dollars (\$200,000) in the aggregate to all:

(1) Candidates;

(2) Multicandidate political campaign committees; and

(3) Political parties on the state level or caucuses of such political parties established by members of either house of the general assembly

during a two-year election cycle.

SECTION 12. Tennessee Code Annotated, Section 2-10-306, is amended by deleting the section in its entirety and by substituting instead the following new section:

§ 2-10-306.

(a) All contributions made by political campaign committees controlled by a political party on the national, state, or local level or by a caucus of such political party established by members of either house of the general assembly shall be considered to have been made by a single committee. Such contributions shall not, in the aggregate, exceed:

(1) Two hundred fifty thousand dollars (\$250,000) per election to any candidate in a statewide election;

(2) Forty thousand dollars (\$40,000) per election to any candidate for the senate; and

(3) Twenty thousand dollars (\$20,000) per election to any candidate for any other state or local public office.

These amounts shall be increased to reflect the percentage of change in the average consumer price index (all items-city average) as published by the United States Department of Labor, Bureau of Labor statistics, on January 1 of every even-numbered year starting in 2008. Such amount shall be increased to the nearest hundred dollar amount and the registry of election finance shall publish the increased amounts on its Web site.

(b) For purposes of this section, "contributions" does not include:

(1) Payment of the costs of preparation, display or mailing or other distribution with respect to printed slate cards, sample ballots, or other printed listings of three (3) or more candidates who are opposed for election. This

exemption does not apply to costs incurred with respect to the preparation and display of listings made on broadcasting stations or in newspapers, magazines and similar types of general public political advertising such as billboards;

(2) Payment of the costs of voter registration and get-out-the-vote activities conducted by party committees, unless the payments are made on behalf of a clearly identified candidate and the payment can be directly attributed to that candidate;

(3) Expenditures for rent, personnel, overhead, general administrative, fundraising, and other day-to-day costs of party committees, unless the expenditures are made on behalf of a clearly identified candidate and the expenditure can be directly attributed to that candidate; or

(4) Expenditures for education campaign seminars and for training of campaign workers, unless the expenditures are made on behalf of a clearly identified candidate and the expenditure can be directly attributed to that candidate.

SECTION 13. Tennessee Code Annotated, Section 2-10-308, is amended by deleting the section in its entirety and by substituting instead the following new section:

§ 2-10-308.

(a) The registry of election finance may impose a maximum civil penalty for a violation of this part of not more than ten thousand dollars (\$10,000) or one hundred fifteen percent (115%) of the amount of all contributions made or accepted in excess of the limitations established by this part, whichever is greater.

(b) Penalties imposed under this part shall be deposited into the state general fund.

(c) To request a waiver or reduction or in any way to contest a penalty imposed by the staff of the registry, a person shall file a petition with the registry. Such petition shall be

considered as a contested case proceeding under the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

(d) If a civil penalty lawfully assessed against a candidate is not paid within thirty (30) days after the assessment becomes final, the candidate shall be ineligible to qualify for election to any state or local public office until such penalty is paid.

SECTION 14. Tennessee Code Annotated, Section 2-10-310, is amended by deleting such section in its entirety and substituting instead the following:

§ 2-10-310.

(a)

(1) Except as provided in subdivisions (a)(2) and (3), from December 15 in even years through the earlier of the last day of regular session or June 1 in odd years, and from December 15 in odd years through the earlier of May 15 or the conclusion of the annual session in even years, no member of the general assembly or a member's campaign committee or the governor or the governor's campaign committee shall conduct a fundraiser or solicit or accept contributions for the benefit of the caucus, any caucus member or member or candidate of the general assembly or governor.

(2) During such period, a member of the general assembly who is a candidate for a local public office shall be permitted to conduct fundraising events and solicit or accept contributions for such campaign for local public office only under the following conditions:

(A) Such fundraising events may be held only in the county in which such member is a candidate for local public office;

(B) Solicitations and acceptance of contributions for such purposes may only be made from individuals residing in such county;

(C) Such fundraising events shall not be held, nor contributions be solicited nor accepted, on state property;

(D) The member shall not be permitted to solicit or accept, directly or indirectly, any actual or in-kind contribution during such period from a lobbyist or employer of a lobbyist; and

(E) No other member of the general assembly or the campaign committee of such other member shall be permitted to solicit or accept contributions during such period for the member campaigning for local public office.

It shall be unlawful for any lobbyist or employer of a lobbyist to make any contribution to such member's campaign committee during such period for any purpose.

(3) All contributions raised as a result of fundraising or a fundraising event authorized and held in accordance with subdivision (a)(2) shall be reported on a form prescribed and provided by the registry of election finance for such purposes. Such form shall be filed with and attached to the applicable campaign finance disclosure report. The following disclosures shall be made on such form:

(A) The amount of contributions collected as a result of such fundraising event;

(B) The date and place such fundraising event was held;

(C) The dates on which such contributions were accepted; and

(D) All other information required by law to be reported on a campaign financial disclosure report.

(b) From December 15 in even years through the earlier of the last day of regular session or June 1 in odd years, and from December 15 in odd years through the

earlier of May 15 or the conclusion of the annual session in even years, a political campaign committee controlled by a political party on the national, state, or local level or by a caucus of such political party established by members of either house of the general assembly, which makes contributions to a candidate for the general assembly or governor for election or to defray the expenses of such person's office shall not conduct a fundraiser, solicit or accept contributions for the benefit of the caucus, any caucus member or candidate for the general assembly or governor.

(c) Excess funds for election to a local public office are not eligible for transfer under § 2-10-114 to a campaign account for election to the general assembly or governor.

SECTION 15. Tennessee Code Annotated, Title 2, Chapter 10, is amended by adding the following as a new, appropriately designated section:

§ 2-10-____.

(a) The registry of election finance shall conduct audits and field investigations of reports and statements filed with the registry as follows:

(1) Each statewide candidate and such candidate's committees shall be subject to an audit on a random selection of approximately two percent (2%) of the number of such candidates in an election with a minimum of at least one (1) audit; and

(2) Each candidate for the general assembly and such candidate's committees shall be subject to an audit on a random selection of two percent (2%) of the number of such candidates in an election.

(b)

(1) The registry shall select by lot the candidates and committees to be audited on a random basis. The selection shall be after the last date for filing the

first report or statement following the primary or general election for which the candidate ran or for which the committee donated money.

(2) No audit or investigation of any candidate or candidate's committee in connection with a report or statement required by this chapter, shall begin until after the last date for filing the first report or statement following the general election for the office for which the candidate ran, except that audits and investigations of candidates and their controlled committees, who were defeated in the primary election and who are not required to file statements for the general election may begin after the last date for filing the first report or statement following the primary election. When the campaign statements or reports of a candidate, are audited and investigated, the audit and investigation shall cover all campaign statements and reports filed for the primary and general elections and any previous campaign statement or report filed since the last election for that office, but shall exclude any statements or reports which have previously been audited.

(3) Audits of members of the general assembly shall only take place during June through December during odd-numbered years.

(c) In order to comply with an audit, candidates and campaigns shall retain copies of all checks, bank statements and vendor receipts for two (2) years after the date of the election to which the records refer.

(d) The registry shall adopt auditing guidelines and standards with guidance from the comptroller of the treasury which shall govern audits and field investigations conducted under this section. The guidelines and standards shall be formulated to accomplish the following purposes:

(1) The audits should encourage compliance and detect violations of this chapter;

(2) The audits should be conducted with maximum efficiency in a cost-effective manner; and

(3) The audits should be as unobtrusive as possible consistent with the foregoing purposes.

In adopting its guidelines and standards the commission shall consider relevant guidelines and standards of the American Institute of Certified Public Accountants to the extent such guidelines and standards are applicable and consistent with the purposes set forth in this section.

(e) After the completion and approval of an audit by the registry, the registry shall make public its findings on the registry's Web site except that audits of candidates defeated in the primary election shall not be made public until after the general election .

(f) Failure to comply with an audit investigation under this section is a Class 2 offense as defined in § 2-10-110.

SECTION 16. Tennessee Code Annotated, Title 2, Chapter 10, is amended by adding the following as a new, appropriately designated section:

§ 2-10-____.

(a)

(1) For the purpose of conducting any hearing or audit as provided in this chapter, the registry has the power to administer oaths, to call any party to testify under oath at such hearings, to require the attendance of witnesses, the production of books, records, and papers, and to take the depositions of witnesses.

(2) For such purposes, the registry is authorized to issue a subpoena for any witness or a subpoena duces tecum to compel the production of any books, records or papers upon a two-thirds (2/3) vote of the entire membership of the board. These subpoenas may be served by registered mail, return receipt requested, to the addressee's business mailing address, or by such personnel of the registry, or shall be directed for service to the sheriff of the county where such witness resides or is found or where such person in custody of any books, records, or papers resides or is found.

(b) In case of a refusal to obey a subpoena issued to any person under subsection (a), any circuit or chancery court of this state within the jurisdiction in which the person refusing to obey the subpoena is found or resides may issue to such person, upon application by the registry, an order requiring such person to appear before the court to show cause why the person should not be held in contempt for refusal to obey the subpoena. Failure to obey a subpoena may be punished by the court as a contempt of court.

SECTION 17. Tennessee Code Annotated, Title 2, Chapter 10, Part 3, is amended by adding the following as a new, appropriately designated section:

§ 2-10-3__.

(a) No person, political campaign committee or multicandidate political campaign committee shall make cash contributions to any candidate with respect to any election which, in the aggregate, exceed one hundred dollars (\$100).

(b) No person shall make cash contributions to any political campaign committee or multicandidate political campaign committee with respect to any election which, in the aggregate, exceed one hundred dollars (\$100).

(c) All contributions, other than in-kind contributions, in excess of one hundred dollars (\$100) must be made by a check drawn on the account of the actual contributor or by a money order or a cashier's check containing the name of the actual contributor or must be evidenced by a written receipt with a copy of the receipt given to the contributor and a copy maintained in the contribution records of the recipient.

SECTION 18. Tennessee Code Annotated, Title 2, Chapter 10, Part 3, is amended by adding the following as a new, appropriately designated section:

§ 2-10-3__.

(a) Contributions to candidates, political campaign committees and multicandidate political campaign committees made by unemancipated minors under eighteen (18) years of age shall be considered contributions by their parents or legal guardians and shall be attributed proportionately to each parent or legal guardian. In the case of a single custodial parent or legal guardian, the total amount of the contribution shall be attributed to the parent or legal guardian; otherwise, fifty percent (50%) of the contribution shall be attributed to each parent or legal guardian.

(b) Contributions from emancipated minors under eighteen (18) years of age shall be considered contributions from the minor if:

(1) The decision to contribute is made knowingly and voluntarily by the minor;

(2) The contribution is from a source owned and controlled exclusively by the minor; and

(3) The contribution does not result from a gift the purpose of which was to provide funds to be contributed.

SECTION 19. Tennessee Code Annotated, Section 2-10-102, is amended by adding the following as a new, appropriately designated subdivision:

() “Independent expenditure” means an expenditure by a person for the purpose of expressly advocating the election or defeat of a candidate or the approval or rejection of an issue, which expenditure is not controlled by, coordinated with, or made upon consultation with, any candidate, political campaign committee, or agent of such candidate or committee. An expenditure for such purpose by a person having a contract with the candidate, political campaign committee, or agent of such candidate or committee in a given election period shall not be deemed an independent expenditure;

SECTION 20. Tennessee Code Annotated, Title 2, Chapter 10, Part 1, is amended by adding the following as a new, appropriately designated section:

§ 2-10-1__.

(a) Any person who makes independent expenditures in excess of one thousand dollars (\$1,000) with respect to a candidate or an issue shall file periodic statements of such expenditures. The statements shall be filed in the same manner and at the same time with the registry as that of a political committee supporting or opposing such candidate or issue as provided in § 2-10-105. The statement shall contain the full name, address, and employer and occupation of the person making the expenditure; the full name and address of each person to whom and for whom each such expenditure has been made; the amount, date, and purpose of each such expenditure; a description of the services or goods obtained by each such expenditure; the issue to which the expenditure relates; and the name and address of, and office sought by, each candidate on whose behalf such expenditure was made.

(b) The provisions of subsection (a) shall not apply to any multicandidate political campaign committee which files reports in accordance with § 2-10-105(d).

(c) The provisions of subsection (a) shall not apply to any political campaign committees controlled by a political party on the national, state, or local level or by a

caucus of such political party established by members of either house of the general assembly if such expenditures are reported by such committees in accordance with §2-10-105.

(d) A violation of this section is a Class 2 offense as defined in § 2-10-110(a)(2).

SECTION 21. Tennessee Code Annotated, Section 2-10-205(2), is amended by deleting the language "Lobbyist Registration and Disclosure Law" and by substituting instead the language "Lobbying Reform Act of 2006".

SECTION 22. Tennessee Code Annotated, Title 3, Chapter 6, is amended by deleting Part 1 in its entirety and by substituting instead the following:

§ 3-6-101. The title of this part is, and may be cited as the "Lobbying Reform Act of 2006."

§ 3-6-102.

As used in this part, unless the context otherwise requires:

(1) "Administrative action" means the taking of any recommendation, report or nonministerial action; the making of any decision or taking any action to postpone any action or decision; action of the governor in approving or vetoing any bill or resolution; the promulgation of a rule; or any action of a quasi-legislative nature, by an official in the executive branch of state government;

(2) "Association" means a union, league, chamber of commerce, committee, club, or other membership organization;

(3) "Attorney general" means the attorney general and reporter;

(4) "Candidate for public office" means an individual who has made a formal announcement of candidacy or qualified under the law of this state to seek nomination for election or elections to any state public office, or has received contributions or made expenditures except for incidental expenditures to determine if one shall be a candidate,

or has given consent for a campaign committee to receive contributions or make expenditures with a view to bringing about such person's nomination for election or the election to state public office, and any individual who has been nominated for appointment as an official in the legislative or executive branch;

(5) "Compensation" means any salary, fee, payment, reimbursement or other valuable consideration, or any combination thereof, received or to be received for engaging in lobbying;

(6) "Day" means the period of time consisting of twenty-four (24) consecutive hours elapsing between two (2) successive midnights. For purposes of calculating deadlines imposed pursuant to this part, any fraction of such period of time shall not be counted as a day;

(7) "Employer of a lobbyist" or "employer" means any person or entity that for compensation, employs, retains or otherwise arranges for a lobbyist to engage in lobbying on behalf of the person or entity. "Employer of a lobbyist" or "employer" specifically includes any such person or entity notwithstanding the lobbyist's relationship to the person or entity as employee, agent, independent contractor, subcontractor or other representative lobbying on behalf of such person or entity. "Employer of a lobbyist" or "employer" does not include a department, agency or entity of state or local government if the department, agency or entity merely designates one or more of its employees to engage in lobbying on behalf of the department, agency or entity. For purposes of employer registration and disclosure pursuant to this part, the recipient of lobbying services rendered by a lobbying firm shall be deemed to be the employer of the lobbyist, rather than the lobbying firm providing the lobbyist;

(8) "Executive agency" means a commission, board, agency, or other entity in the executive branch of the state government or any independent entity of the state government that is not a part of the legislative or judicial branch;

(9) "Expenditure" means any advance, conveyance, deposit, distribution, transfer of funds, loan, payment, pledge, or subscription of money or anything of value, and any contract, agreement, promise, or other obligation, whether or not legally enforceable, to make an expenditure;

(10) "Gift" means any payment, honorarium, subscription, loan, advance, forbearance, rendering or deposit of money or services, unless consideration of equal or greater value is received. "Gift" does not include a political contribution otherwise reported as required by law, a commercially reasonable loan made in the ordinary course of business, or a gift received from a member of the person's immediate family or from a relative within the third degree of consanguinity of the person or of the person's spouse, or from the spouse of any such relative. "Gift" does not include the waiver of a registration fee for a conference or educational seminar.

(11) "Immediate family" means a spouse or minor child living in the household;

(12) "Influencing legislative or administrative action" means promoting, supporting, influencing, modifying, opposing or delaying any legislative or administrative action by any means, including, but not limited to, the provision or use of information, statistics, studies, or analyses, but not including the furnishing of information, statistics, studies, or analyses requested by an official of the legislative or executive branch to such official or the giving of testimony by an individual testifying at an official hearing conducted by officials of the legislative or executive branch;

(13) "Legislative action" means introduction, sponsorship, debate, voting or any other nonministerial official action or nonaction on any bill, resolution, amendment,

nomination, appointment, report or any other matter pending or proposed in a legislative committee or in either house of the general assembly;

(14) "Lobby" means to communicate, directly or indirectly, with any official in the legislative branch or executive branch for the purpose of influencing any legislative action or administrative action; provided, however, "lobby" does not include representation of a client in a contested case proceeding under the Uniform Administrative Procedures Act, compiled in title 4, chapter 5;

(15) "Lobbying firm" means any firm, corporation, partnership or other business entity that regularly supplies lobbying services to others for compensation;

(16) "Lobbyist" means any person who engages in lobbying for compensation;

(17) "Ministerial action" means an action that a person performs in a prescribed manner in obedience to the mandate of legal authority, without regard to, or the exercise of, such person's own judgment upon the propriety of the action being taken;

(18) "Official in the executive branch" means the governor, any member of the governor's staff, any member or employee of a state regulatory commission, including, without limitation, directors of the Tennessee regulatory authority, or any member or employee of any executive department or agency or other state body in the executive branch;

(19) "Official in the legislative branch" means any member, member-elect, any staff person or employee of the general assembly or any member of a commission established by and responsible to the general assembly or either house thereof who takes legislative action. "Official in the legislative branch" also includes the secretary of state, treasurer, and comptroller of the treasury and any employee of such offices;

(20) "Person" means an individual, partnership, committee, association, corporation, labor organization, or any other organization or group of persons;

(21) "Political contribution" means any amount of more than one hundred dollars (\$100) in the form of an advance, conveyance, deposit, distribution, transfer of funds, loan, payment, pledge, purchase of a ticket to a testimonial or similar fund-raising event, or subscription of money or anything of value, in connection with a political campaign and any contract, agreement, promise, or other obligation, whether or not legally enforceable, to make a political contribution; however, "political contribution" does not mean volunteer services or personal expenses;

(22) "Registry of election finance" or "registry" means the entity created by § 2-10-203; and

(23) "Solicit" means to entreat, to implore, to ask, to attempt, or to try to obtain.

§ 3-6-103.

(a)

(1) Within five (5) days after first becoming an employer of a lobbyist and within five (5) days after resuming employer status following a hiatus, an employer shall electronically register with the registry of election finance. Each year thereafter, the employer shall register in the same manner if the employer continues to employ one (1) or more lobbyists.

(2) Within five (5) days after first becoming a lobbyist and within five (5) days after resuming lobbyist status following a hiatus, a lobbyist shall electronically register with the registry of election finance. Each year thereafter, the lobbyist shall register in the same manner if the lobbyist continues to engage in lobbying.

(3) Within thirty (30) days after filing registration, each lobbyist shall provide a current photographic portrait to the registry; provided, however, no

lobbyist shall be required to submit more than one (1) such portrait during any year.

(b)

(1) When electronically registering, each employer of a lobbyist shall file a registration statement that includes the following information:

(A) Employer's name, business address, e-mail address, and such additional contact information as may be required by rule of the registry;

(B) Subject matter categories of interest to the employer, to be indicated among categories listed by the registry;

(C) Pending legislation of interest to the employer, to be indicated by bill or resolution numbers;

(D) Name, address, and e-mail address of each lobbyist authorized to represent the employer and such additional contact information as may be required by rule of the registry; and

(E) The extent of any direct business arrangement or partnership between the employer and any candidate for public office or any official in the legislative or executive branch.

(2) When electronically registering, each lobbyist shall file a separate registration statement, for each employer the lobbyist is authorized to represent, that includes the following information:

(A) Lobbyist's name, business address, e-mail address, and such additional contact information as may be required by rule of the registry;

(B) Subject matters to be addressed on behalf of the employer, to be indicated among general categories listed by the registry;

(C) Pending legislation to be addressed on behalf of the employer, to be listed by bill or resolution number;

(D) The employer's name, business address, e-mail address and such other contact information as may be required by rule of the registry; and

(E) The extent of any direct business arrangement or partnership between the lobbyist and any candidate for public office or any official in the legislative or executive branch.

(c)

(1) Throughout the year, by amendment electronically filed with the registry, each employer of a lobbyist shall update, correct or otherwise modify the employer's registration statement within five (5) days following the occurrence of any event, action or changed circumstance that renders inaccurate or incomplete the employer's registration statement or any amendment thereto.

(2) Throughout the year, by amendment electronically filed with the registry, each lobbyist shall update, correct or otherwise modify the lobbyist's or firm's registration statement within five (5) days following the occurrence of any event, action, or changed circumstance that renders inaccurate or incomplete the lobbyist's registration statement or any amendment thereto.

(d)

(1) By rule, the registry shall establish an employer registration fee, based on a sliding scale according to the number of lobbyists authorized to represent the employer. The registration fee shall be paid by the employer within thirty (30) days following submission of any employer registration statement or amendment by which a lobbyist or additional lobbyist is reported.

(2) By rule, the registry shall establish a lobbyist registration fee, based on a sliding scale according to the number of employers the lobbyist is authorized to represent. The registration fee shall be paid by the lobbyist within thirty (30) days following submission of any lobbyist registration statement or amendment by which an employer or additional employer is reported.

(e) By rule, the registry may authorize a lobbying firm to file consolidated lobbyist registration statements and amendments on behalf of its partners, associates and employees; provided, however, the partners, associates and employees of the firm shall remain individually liable for the timeliness, accuracy and completeness of any such consolidated registration statement or amendment and each such partner, associate or employee shall individually register under § 3-6-103(a)(2) and § 3-6-109(c).

(f) Employer and lobbyist registration statements and amendments shall be promptly posted on the registry's Internet site.

(g) The complete, annual registration year for employers and lobbyists shall be the period from January 1 through December 31.

(h) An individual is not required to register with the registry of election finance as either an employer or a lobbyist based solely upon the grounds that the individual is:

(1) A public official performing the duties of the office held;

(2) A person, or a duly licensed attorney at law acting in a representative capacity on behalf of a client, in a contested case proceeding under the Uniform Administrative Procedures Act, compiled in title 4, chapter 5; or

(3) An editor or working member of the press, radio or television who in the ordinary course of business disseminates news or editorial comment to the general public.

§ 3-6-104.

(a) Within fifteen (15) days following conclusion of the quarterly periods ending March 31, June 30, September 30 and December 31, each employer of a lobbyist shall electronically file with the registry the employer quarterly disclosure report. The disclosure report shall include the following information for the reporting period:

(1) Employer's total lobbying expenditures;

(2) Total lobbyists' compensation and reimbursement paid by the employer: such total to be indicated within one of the following ranges:

(A) Less than \$10,000,

(B) At least \$10,000 but less than \$25,000,

(C) At least \$25,000 but less than \$50,000,

(D) At least \$50,000 but less than \$100,000,

(E) At least \$100,000 but less than \$150,000,

(F) At least \$150,000 but less than \$200,000, or

(G) \$200,000 or more;

(3) Other lobbying expenditures by the employer, excluding lobbyist compensation and reimbursement:

(A) Communications expenses incurred for the purpose of influencing administrative action or legislative action through public opinion or grassroots action, including printing, publishing, advertising, broadcasting, rallies, demonstrations, seminars, lectures, conferences, postage, telephone charges, grants to other lobbying organizations, expenditures to influence officials to adopt or oppose a position on an issue or any other similar expense;

(B) Total office expenses directly related to lobbying efforts, excluding communications expenses reported above;

(C) Travel expenses, entertainment, food, refreshments, meals, health screenings, amenities, foodstuffs or beverages, directly or indirectly, provided to a candidate for public office, official in the legislative branch, official in the executive branch, or an immediate family member of such candidate or official: to be itemized by the recipient candidate, official or family member; date; location; vendor and cost; and

(D) Other categories of lobbying expenditures, as may be required by rule of the registry; and

(4) Campaign contributions directly or indirectly made to or for the benefit of state office holders or candidates for state office, or, in the case of a corporate employer of a lobbyist, campaign contributions made, by the officers or the major shareholders of the corporation or their immediate family members, to or for the benefit of state office holders or candidates for state office: to be itemized by date, recipient or beneficiary, and the dollar amount of the contribution.

(b) Within fifteen (15) days following conclusion of the quarterly periods ending March 31, June 30, September 30 and December 31, each lobbyist shall electronically file with the registry the lobbyist quarterly disclosure report. The disclosure report shall include the following information for the reporting period:

(1) Total compensation and reimbursement received by the lobbyist from all employers, such total to be indicated within one of the following ranges:

- (A) Less than \$10,000,
- (B) At least \$10,000 but less than \$25,000,
- (C) At least \$25,000 but less than \$50,000,
- (D) At least \$50,000 but less than \$100,000,
- (E) At least \$100,000 but less than \$150,000,

(F) At least \$150,000 but less than \$200,000, or

(G) \$200,000 or more;

(2) Total lobbying expenditures by the lobbyist, whether or not reimbursed by an employer, for:

(A) Communications expenses incurred for the purpose of influencing administrative action or legislative action through public opinion or grassroots action, including printing, publishing, advertising, broadcasting, rallies, demonstrations, seminars, lectures, conferences, postage, telephone charges, grants to other lobbying organizations, expenditures to influence officials to adopt or oppose a position on an issue or any other similar expense;

(B) Office expenses directly related to lobbying efforts, excluding communications expenses reported above;

(C) Travel expenses, entertainment, food, refreshments, meals, health screenings, amenities, foodstuffs or beverages, directly or indirectly, provided to a candidate for public office, official in the legislative branch, official in the executive branch, or an immediate family member of such candidate or official: to be itemized by recipient candidate, official or family member; date; location; vendor; cost and employer, if any, reimbursing the lobbyist for such expenditure; and

(D) Other categories of lobbying expenditures, as may be required by rule of the registry; and

(3) Campaign contributions made to or for the benefit of state office holders or candidates for state office: to be itemized by date, recipient or beneficiary, and the dollar amount of the contribution.

(c) Employer and lobbyist quarterly reports shall be promptly posted on the registry's Internet site.

(d) By rule, the registry may authorize a lobbying firm to file consolidated lobbyist quarterly disclosure reports on behalf of its partners, associates and employees; provided, however, the partners, associates and employees of the firm shall remain individually liable for the timeliness, accuracy and completeness of any such consolidated disclosure report.

(e) Any person providing funds to make a gift or expenditure other than a political contribution for the purpose of lobbying shall comply with the reporting requirements of this section whenever the purpose of such funds is to assist indirectly an official of the executive or legislative or judicial branch or any state educational institution to lobby a specific program or programs on which legislative action is pending. Such person shall also report the source and amount of the funds from which such gift or expenditure is made.

§ 3-6-105.

(a) No employer of a lobbyist, lobbyist or anyone acting at the specific direction of an employer or lobbyist shall offer or attempt to offer anything of value to an official in the legislative or executive branch or to such official's immediate family based on any stated or tacit understanding that the official's vote, official action or judgment would be influenced thereby.

(b) No employer of a lobbyist or lobbyist shall knowingly make or cause to be made any false statement or misrepresentation of the facts concerning any matter for which such lobbyist is registered to lobby to any official in the legislative or executive branch.

(c) No official in the legislative or executive branch or a member of such official's staff or immediate family shall solicit or accept anything of value in violation of subsection (a).

(d) No lobbyist shall make a loan of money to any candidates for public office, officials in the legislative or executive branch, or to anyone on their behalf.

(e) No candidate for public office, official in the legislative or executive branch or a member of such official's staff or immediate family shall solicit or accept a loan in violation of subsection (d).

(f) No employer of a lobbyist, lobbyist or anyone acting at the direction of an employer or lobbyist shall pay or agree to pay an official in the legislative or executive branch compensation for property or services substantially in excess of that charged in the ordinary course of business.

(g) No employer of a lobbyist, lobbyist, or anyone acting at the direction of an employer or lobbyist shall permit an official in the legislative or executive branch or a staff member or a member of the official's immediate family to use the credit or credit card of the employer or lobbyist or any other credit card over which the employer or the lobbyist has control, unless the employer or the lobbyist attends the meal or other activity in which the official, staff member, or immediate family member participates.

(h) No employer of a lobbyist, lobbyist or anyone acting at the direction of an employer or lobbyist shall pay the hotel expenses of an official in the legislative branch if the official receives an expense allowance under § 3-1-106.

(i) No employer of a lobbyist or lobbyist or multicandidate political campaign committee controlled by an employer or lobbyist shall make a contribution to a candidate for the office of governor or member of the general assembly between December 15 and the conclusion of the regular annual legislative session of the general assembly.

(j) No employer of a lobbyist shall offer or pay and no lobbyist shall solicit or accept any fee, compensation or bonus for lobbying services wherein the dollar amount of the fee, compensation or bonus is contingent upon achievement of an outcome deemed to be successful by the employer.

(k) An elected official within the legislative branch or executive branch may not register as a lobbyist during the twelve-month period immediately following his or her departure from office.

§ 3-6-106.

(a)

(1) No employer of a lobbyist or a lobbyist may provide a gift, directly or indirectly, to a candidate for public office, official in the legislative branch, official in the executive branch, or immediate family of such candidate or official.

(2) A candidate for public office, an official in the legislative branch, or an official in the executive branch, or immediate family of such candidate or official may not solicit or accept directly or indirectly a gift from an employer of a lobbyist or a lobbyist.

(b) The following are not subject to the prohibition in subsection (a):

(1) Benefits resulting from business, employment, or other outside activities of a candidate or official or the immediate family of a candidate or official, if such benefits are customarily provided to others in similar circumstances and are not enhanced due to the status of the candidate or official;

(2) Informational materials in the form of books, articles, periodicals, other written materials, audiotapes, videotapes, or other forms of communication;

(3) A gift given by an individual if the gift is given for a nonbusiness purpose and is motivated by a close personal friendship and not by the position of the candidate or official.

(A) A gift shall not be considered to be given for a nonbusiness purpose if the individual giving the gift seeks:

(i) To deduct the value of such gift as a business expense on the individual's federal income tax return; or

(ii) Direct or indirect reimbursement or any other compensation for the value of the gift from a client or employer.

(B) In determining if the giving of a gift is motivated by a close personal friendship, at least the following factors shall be considered:

(i) The history of the relationship between the individual giving the gift and the recipient of the gift, including whether or not gifts have previously been exchanged by such individuals;

(ii) Whether the gift was purchased by the individual who gave the item; and

(iii) Whether the individual who gave the gift also gave the same or similar gifts to other candidates, officials, or their immediate family at the same time;

(4) Sample merchandise, promotional items, and appreciation tokens, if they are routinely given to customers, suppliers or potential customers or suppliers in the ordinary course of business;

(5) Unsolicited tokens or awards of appreciation, honorary degrees, or bona fide awards in recognition of public service in the form of a plaque, trophy,

desk item, wall memento and similar items; provided, that any such item shall not be in a form which can be readily converted to cash;

(6) Opportunities and benefits made available to all members of an appropriate class of the general public, including but not limited to:

(A) Discounts afforded to the general public or specified groups or occupations under normal business conditions except that such discounts may not be based on the status of the candidate or official;

(B) Prizes and awards given in public contests; and

(C) Benefits of participation in events held within the state and sponsored by, or for the benefit of, charitable organizations as defined in § 48-101-501(1); provided, that such events must be open to participation by persons other than candidates, officials or their immediate family and any benefits received must not be enhanced due to the status of the candidate or official, or provided that invitations are extended to the entire membership of the general assembly;

(7) Tickets to athletic events involving teams representing in-state schools, colleges and universities or to other events sponsored by such institutions, if offered by the involved institution, and benefits of attendance at political events or fundraisers sponsored by candidates for public office or other political organizations, and/or tickets to charitable, cultural, educational or political events held within the state, when customarily provided as a courtesy to all candidates for an office or public officials of similar rank in the event's jurisdiction;

(8)

(A) Expenses for out of state travel, if such travel is paid for, reimbursed, or sponsored by a government or an association of elected government officials or any other group or association which is an umbrella organization for public officials;

(B) Entertainment, food, refreshments, meals, health screenings, amenities, foodstuffs or beverages that are provided in connection with a conference, if the conference is sponsored by an established or recognized association of elected state government officials, staff of elected state government officials or both officials and staff, or any other group or association which is an umbrella organization for such officials, staff, or both officials and staff;

(9)

(A) Food, refreshments, meals, foodstuffs, entertainment or beverages that are provided in connection with an event to which invitations are extended to the entire membership of the general assembly, a committee of either or both houses of the general assembly, or a delegation in the general assembly from two (2) or more senatorial districts; provided, that no lobbyist or employer of a lobbyist may provide a gift of food, refreshments, meals, foodstuffs, entertainment, or beverages the value of which to the official exceeds fifty dollars (\$50.00) per event; and provided further, that the value of a gift made pursuant to this subdivision (b)(9)(A) may not be reduced below the monetary limit by dividing the cost of the gift among two (2) or more lobbyists or employers of lobbyists. No lobbyist or an employer of a lobbyist may provide gifts to

any person pursuant to this subdivision (b)(9)(A) that have a cumulative value of more than five hundred dollars (\$500) during a calendar year;

(B) In calculating the limits established by subdivision (b)(9)(A), sales tax and gratuity are excluded;

(10) Food, refreshments, meals, foodstuffs, entertainment, beverages or intrastate travel expenses that are provided in connection with an event where the candidate for public office, an official in the legislative branch or an official in the executive branch, or an immediate family member of such candidate or official is a speaker or part of a panel discussion at a scheduled meeting of such membership organization which has regular meetings;

(11) Health care services which are provided or rendered on state property and are offered as a courtesy to all officials or employees of the legislative or executive branch; and

(12) Travel expenses for intrastate ground travel for which no fare is ordinarily charged.

(c) Nothing herein shall prohibit or restrict a city, county or chamber of commerce from hosting and/or funding an activity where the entire general assembly is invited as a group to a special activity within that governmental entity's jurisdiction. County and municipal groups, and state colleges and universities are exempted from the prohibitions in this section when access to facilities or events which they sponsor is permitted to all members of the general assembly, a standing or statutory committee of either or both houses of the general assembly, or all members whose districts are located within the county of such group, college or university.

(d) A gift made contrary to this section shall not be a violation of this section if the candidate, official or immediate family member does not use the gift and returns it to

the donor within the latter of ten (10) days of receipt or ten (10) days of having knowledge that the gift was a violation or pays consideration of equal or greater value within the latter of ten (10) days of receipt or ten (10) days of having knowledge that the gift was a violation.

§ 3-6-107.

(a) The provisions of this part do not apply to the members of the Tennessee regulatory authority, except as provided in this section.

(b)

(1) While any contested case is pending before the authority or is on appeal, it is unlawful for any director or candidate therefore to knowingly accept a contribution for a campaign for election or reelection to such office from any employee, owner, major stockholder or officer of a company or business entity regulated by the Tennessee regulatory authority, which is a party to such contested case, or from a committee which obtains more than fifty percent (50%) of its funds from a regulated individual or from a regulated industry which is a party to the contested case.

(2) For purposes of this section, a "contested case" before the authority means any proceeding which commences upon the filing of a formal petition in accordance with § 65-2-103.

(c) Any employee, owner, major stockholder or officer of a company regulated by the authority shall be prohibited from making expenditures other than political contributions in excess of a cumulative total of fifty dollars (\$50.00) during a single week or in excess of a total of five hundred dollars (\$500) in a six-month period to benefit any director of the authority; provided, that events where invitations are extended to all the directors of the authority shall be exempt from the provisions of this section.

(d) The provisions of this section shall not alter the provisions of § 65-1-102.

§ 3-6-108.

(a) Notwithstanding the provisions of any law to the contrary,

(1) The registry may administratively assess a civil penalty, not to exceed ten thousand dollars (\$10,000), if an employer of a lobbyist:

(A) Fails, without good cause, to timely register or to timely update, correct or otherwise modify the employer's registration statement or an amendment thereto;

(B) Fails, without good cause, to timely pay a registration fee;

(C) Fails, without good cause, to timely file the employer quarterly disclosure report;

(D) Provides information in a registration statement or an amendment thereto or in a quarterly disclosure report knowing or having reason to know that such information is inaccurate or incomplete;

(E) Utilizes the services of a lobbyist knowing or having reason to know that either the employer's registration or the lobbyist's registration has been rejected, suspended or revoked by the registry; or

(F) Knowingly violates any provision of § 3-6-105 or § 3-6-106.

(2) The registry may administratively assess a civil penalty, not to exceed ten thousand dollars (\$10,000), if a lobbyist:

(A) Fails, without good cause, to timely register or to timely update, correct or otherwise modify the lobbyist's registration statement or an amendment thereto;

(B) Fails, without good cause, to timely pay a registration fee;

(C) Fails, without good cause, to timely file the lobbyist quarterly disclosure report;

(D) Provides information in a registration statement or an amendment thereto or in a quarterly disclosure report knowing or having reason to know that such information is inaccurate or incomplete;

(E) Engages in lobbying on behalf of any employer knowing or having reason to know that either the lobbyist's or the employer's registration has been rejected, suspended or revoked by the registry; or

(F) Knowingly violates any provision of § 3-6-105 or § 3-6-106.

(3) The registry of election finance may administratively reject, suspend or revoke the registration of an employer or a lobbyist who, without good cause, fails to pay any such civil penalty within thirty (30) days following the date on which the registry renders its final order assessing such civil penalty.

(b) Notwithstanding the provisions of any law to the contrary, the registry of election finance may administratively reject, suspend or revoke the registration of an employer or a lobbyist who knowingly and persistently violates the provisions of this part. As used in this subsection, "persistently" mean three (3) or more occasions during the two-year period of any general assembly.

(c) On its Internet site, the registry shall promptly post the names of all employers and lobbyists who are:

(1) Delinquent in filing registration, registration statements or amendments thereto,

(2) Delinquent in filing quarterly disclosure reports;

(3) Delinquent in paying registration fees or civil penalties; or

(4) Found to have committed any other violation of this part.

The registry shall also post the names of all employers and lobbyists having rejected, suspended or revoked registration.

(d) An intentional violation of this part also constitutes a criminal offense and is punishable as a Class C misdemeanor for the first offense, as a Class B misdemeanor for the second offense, and as a Class A misdemeanor for the third and subsequent offenses.

(e) In the chancery court of Davidson County, the registry may seek injunctive relief to prevent any employer or lobbyist from engaging in any continuing violation of this part.

§ 3-6-109.

(a) Notwithstanding any provision of this part or any other law to the contrary, any public employee, who is designated by the administrative head of the employees department, agency or entity of state or local government to engage in lobbying on behalf of such department, agency or entity, must timely register and comply with all other lobbyist requirements imposed pursuant to this part, except:

- (1) Filing lobbyist registration statements and amendments;
- (2) Filing lobbyist quarterly disclosure reports; and
- (3) Paying lobbyist registration fees.

(b) Notwithstanding the provisions of any law to the contrary, any lobbyist who receives as compensation only reimbursement for actual out-of-pocket personal expenses shall comply with all requirements imposed on lobbyists by the provisions of this part but shall not be required to pay the occupational privilege tax on lobbyists imposed by § 67-4-1702(a)(1). For purposes of this subsection, "out-of-pocket personal expenses" include such things as the lobby registration fee, legislative information services material, copying expenses, transportation, parking fees and food incurred

while actually engaging in lobbying. Transportation, parking fees, and food shall be limited to the expenses allowed for such items in the comprehensive state travel regulations. No such reimbursed expenses shall be for the benefit of any public official except for informational materials delivered to public officials.

(c) Within five (5) days following the effective date of this part, each lobbyist currently registered shall electronically register in accordance with the requirements of this part.

§ 3-6-110.

(a) This part shall be administered by the registry of election finance. It is the duty of the registry to:

(1) Develop, with the advice, assistance and approval of the office of information resources, an Internet-based, electronic filing system for use by each employer of a lobbyist and each lobbyist required to electronically file registration, registration statements, amendments to registration statements, quarterly disclosure reports or any other information required to be filed pursuant to this part;

(2) Develop, with the advice, assistance and approval of the office of information resources, a process that provides each employer of a lobbyist and each lobbyist with secure access to the electronic filing system. The system shall provide adequate safeguards to prevent unauthorized persons from inappropriately tampering with, manipulating or altering the data;

(3) Develop, with the advice, assistance and approval of the office of information resources, and prescribe electronic forms for registration, registration statements, amendments to registration statements, quarterly disclosure reports and other information required to be filed pursuant to this part;

(4) Provide training to employers and lobbyists on the proper utilization of the electronic filing system;

(5) Preserve such registration, registration statements, amendments to registration statements, quarterly disclosure reports and other information required to be filed pursuant to this part for a period of at least five (5) years from date of receipt;

(6) Develop a filing, coding and cross-indexing system consonant with the purposes of this part;

(7) Seek from the attorney general and reporter, issue, and publish, upon proper request from any employer or lobbyist or public official, advisory opinions upon the requirements of this part;

(8) Accept the electronic filing of any pertinent information voluntarily supplied that exceeds the requirements of this part;

(9) Make, with the advice, assistance and approval of the office of information resources, each electronically filed registration, registration statement, amendment to registration statement, quarterly disclosure report and other employer or lobbyist information filed pursuant to this part, available for viewing on the registry's Internet site in a format that is searchable and that may be downloaded and managed by a user with appropriate software;

(10) Review electronic filings submitted pursuant to this part to ensure compliance with the laws administered and enforced by the registry. Filings older than two (2) years shall be deemed to be sufficient, absent a showing of fraud;

(11) Audit at least two percent (2%) of all registration statements and amendments thereto as well as at least two percent (2%) percent of all quarterly

disclosure reports: such statements, amendments and reports to be randomly selected for audit;

(12) Compile and publish, on the registry's Internet site, the following quarterly reports listing:

(A) All registered employers, alphabetically;

(B) All registered lobbyists, alphabetically;

(C) Each subject matter category specified by the registry for purposes of § 3-6-103(b)(1)(B) or § 3-6-103(b)(2)(B), with each employer or lobbyist listed thereunder who indicates interest in such subject matter category; and

(D) Each bill or resolution for which any employer or lobbyist indicated interest for purposes of § 3-6-103(b)(1)(C) or § 3-6-103(b)(2)(C), with each employer or lobbyist listed thereunder who indicates interest in such bill or resolution.

The registry may prepare and publish on its Internet site such other reports as are deemed to be appropriate and in the public interest;

(13) Promulgate any rules and regulations as may be appropriate for the administration of this part; provided, that such rules and regulations shall be promulgated in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5; and

(14) Impose civil penalties and other administrative sanctions in accordance with the contested case provisions of the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

(b) It is the duty of the attorney general and reporter to render opinions and give counsel to the registry of election finance upon request of the executive director.

SECTION 23. Tennessee Code Annotated, Section 67-4-1702(a)(1), is amended by deleting the language "§ 3-6-104" and by substituting instead the following:

"§ 3-6-103".

SECTION 24. Tennessee Code Annotated, Title 3, is amended by adding the following language as a new, appropriately designated chapter:

§ 3-18-101.

This chapter shall be known and may be cited as the "Tennessee Ethics Commission Act of 2006."

§ 3-18-102.

It is the intent of the general assembly that the integrity of the processes of government be secured and protected from abuse. The general assembly recognizes that a public office is a public trust and that the citizens of Tennessee are entitled to a responsive, accountable, and incorruptible government. The Tennessee ethics commission is established to sustain the public's confidence in the general assembly by creating an independent entity to investigate alleged ethical violations.

§ 3-18-103.

(a) There is created as an independent entity of state government a Tennessee ethics commission. The commission shall be composed of three (3) members appointed as provided in this section. Appointments shall be made to reflect the broadest possible representation of Tennessee citizens striving to ensure that the commission is composed of members who are diverse in ethnicity, race, gender, geographic residency, heritage, perspective and experience. Each member shall:

- (1) Have been a legal resident of this state for five (5) years immediately preceding selection;
- (2) Be at least thirty (30) years of age;
- (3) Be a registered voter in Tennessee;

- (4) Be a person of high ethical standards who has an active interest in promoting ethics in government;
- (5) Not be announced as a candidate for public office;
- (6) Not be a member of a political party's state executive committee; and
- (7) Not have been convicted of a felony or any misdemeanor involving a violation of election or lobbying laws.

(b)

(1) For administrative purposes, the Tennessee ethics commission shall be attached to the department of state for all administrative matters relating to receipts, disbursements, expense accounts, budget, audit, and other related items. The autonomy of the commission and its authority are not affected by this subsection and the secretary of state shall have no administrative or supervisory control over the commission.

(2) No person performing staff duties for the Tennessee ethics commission, including the executive director, shall, during the period of such employment:

- (A) Be allowed to hold or qualify for elective office to any state or local public office as defined by § 2-10-102;
- (B) Be an officer of any political party or political committee;
- (C) Permit such person's name to be used, or make contributions, in support of or in opposition to any candidate or propositions;
- (D) Participate in any way in any election campaign; or
- (E) Lobby, or employ or assist a lobbyist; provided, that this provision on lobbying shall not prohibit the executive director from the performance of the executive director's duties.

(c) Each appointee shall be subject to confirmation by a two-thirds (2/3) vote of approval by each house of the general assembly within thirty (30) days after the general assembly next convenes following such appointments. Such appointees shall have full power to serve until the general assembly votes to refuse confirmation. Vacancies shall be filled in the same manner as the vacating member's office was originally filled. The members shall be selected as follows:

- (1) The governor shall appoint one (1) member;
- (2) The attorney general and reporter shall appoint one (1) member; and
- (3) The chief justice of the supreme court shall appoint one (1) member.

(d) Members of the commission shall serve four-year terms commencing on July 1, 2006; provided, however, that members whose terms commence on July 1, 2010 shall have the following terms:

- (1) The member appointed by the governor shall serve a term of two (2) years;
- (2) The member appointed by the attorney general and reporter shall serve a term of three (3) years; and
- (3) The member appointed by the chief justice of the supreme court shall serve a term of four (4) years.

(e) The commission shall elect a chair from among its membership. The chair shall serve in that capacity for one (1) year and shall be eligible for reelection. The chair shall preside at all meetings and shall have all the powers and privileges of the other members.

(f) The commission shall fix the place and time of its regular meetings by order duly recorded in its minutes. Two (2) members of the commission shall constitute a quorum and two (2) affirmative votes are required for any commission action. Special

meetings shall be called by the chair on the chair's initiative or on the written request of two (2) members. Members shall receive seven (7) days' written notice of a special meeting, and the notice shall specify the purpose, time and place of the meeting, and no other matters may be considered, without a specific waiver by all the members.

(g) The members of the commission shall receive no compensation; provided, that each member of the commission shall be eligible for reimbursement of expenses and mileage in accordance with the regulations promulgated by the commissioner of finance and administration and approved by the attorney general and reporter.

(h) No member of the commission shall, during such membership:

(1) Be allowed to hold or qualify for elective office to any state or local public office, as defined by § 2-10-102;

(2) Be an officer of any political party or political committee;

(3) Permit such member's name to be used, or make contributions, in support of or in opposition to any candidate or propositions;

(4) Participate in any way in any election campaign; or

(5) Lobby, or employ or assist a lobbyist.

(i) The prohibitions of subsection (h) shall not prohibit any incumbent member of the commission from seeking votes for confirmation of his or her appointment to the commission.

(j)

(1) The provisions of subsection (h) shall be applicable for one (1) year subsequent to the removal, vacancy or termination of the term of office of a member of the commission; provided, that such one (1) year prohibition with respect to subdivision (h)(1) shall not apply to a member of the commission who resigns from the commission and thereafter qualifies as a candidate for elective

office to any state or local public office, nor shall such prohibition apply to making contributions to or participating in the member's own campaign for such election, if the resignation occurs either prior to the qualifying deadline for such election or prior to certifying to the registry of election finance, the name and address of the candidate's or committee's political treasurer for such election pursuant to § 2-10-105(e), whichever is earlier.

(2) A member of the commission may not be appointed or hired by an official over whom the commission has jurisdiction for one (1) year subsequent to the removal, vacancy or termination of the term of office of such member.

(3) Notwithstanding the provisions of subsection (h) and subdivision (j)(1), or any other provision of this chapter, during that one-year period specified in subdivision (j)(1), a former member of the commission may support a candidate or the committee of a candidate for a federal election in any way permitted by law, including financial support.

(k) Unless otherwise specifically provided by law, any member of the commission who violates the oath of office for such position or participates in any of the activities prohibited by this chapter commits a Class A misdemeanor, and such violation or participation shall be a ground for removal from office.

§ 3-18-104.

(a) The Tennessee ethics commission shall appoint a full-time executive director who shall serve at the pleasure of the commission. Other staff shall be employed on recommendation of the executive director with the approval of the commission. The commission may call on the department of state for such advice, documents or services as it may require.

(b) Employees of the commission shall not have civil service status, but such employees shall be subject to personnel policies applicable to state employees generally, such as leave, compensation, classification and travel requests.

§ 3-18-105.

The commission has jurisdiction over any violation of the Ethics Code for the Tennessee State Senate or the Ethics Code for the House of Representatives of the Tennessee General Assembly.

§ 3-18-106.

(a) The duties of the Tennessee ethics commission include the following:

(1) Develop prescribed forms for complaints and other documents that the commission deems necessary for implementing the provisions of this chapter;

(2) Prepare and publish manuals and guides to facilitate compliance with the rules governing the conduct of members of the general assembly;

(3) Administer ethics training as provided in § 3-18-110 and § 3-18-111;

(4) Provide an annual report to the governor and the general assembly concerning the administration of this chapter; and

(5) Investigate any alleged violation upon sworn complaint or upon its own motion as provided in § 3-18-112;

(b) It is the duty of the attorney general and reporter to render opinions and give counsel to the commission upon the request of the executive director or the commission.

§ 3-18-107.

The Tennessee ethics commission has the following powers:

(1) Promulgate such rules and regulations pursuant to the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, as are necessary to implement the provisions of this chapter;

(2) Subpoena witnesses, compel their attendance and testimony, conduct audits, administer oaths, take evidence and require by subpoena the production of books, papers, records or other evidence needed for the performance of the commission's duties or exercise of its powers, including its duties and powers of investigation;

(3) Issue written advisory opinions to persons subject to the jurisdiction of the commission. Any person subject to the jurisdiction of the commission may rely upon such opinion without threat of sanction with respect to the issue addressed by the opinion if the person conforms such person's conduct to the requirements of the advisory opinion;

(4) Request investigative assistance from the attorney general and reporter;

(5) Conduct a hearing to determine if probable cause exists to believe that an ethics violation has occurred; and

(6) Issue a report and recommendations to the ethics committee of the appropriate house of the general assembly upon making a determination that probable cause exists to believe that an ethics violation has occurred.

§ 3-18-108.

For the purposes of enforcement, this chapter shall be prospective only, and the Tennessee ethics commission shall limit its investigations to acts or omissions which occur on or after November 7, 2006.

§ 3-18-109.

The Tennessee ethics commission has the authority to petition the chancery court through the attorney general and reporter for enforcement of any subpoena it has issued.

§ 3-18-110.

(a) The Tennessee ethics commission shall provide an ethics course concerning compliance with the laws and rules governing ethical conduct for members-elect of the general assembly. The commission shall coordinate with the chief clerk of the house of representatives and the chief clerk of the senate to offer such course during the orientation program for new members.

(1) The ethics course shall include, but not be limited to, laws and rules governing the ethical conduct of members of the general assembly, administrative regulations, relevant internal policies, specific technical and legal requirements, summaries of advisory opinions, underlying purposes and principles of ethics rules, examples of practical application of the rules and principles, and a question-and-answer participatory segment regarding common problems and situations.

(2) The course shall be at least three (3) hours in length and shall be designed for approval by the Tennessee commission on continuing legal education and specialization for continuing legal education ethics credits.

(b) The commission shall provide a current issues course in January of each year for members of the general assembly concerning compliance with laws and rules governing the ethical conduct of members of the general assembly. The commission shall notify members in advance of the time and location of the course.

(1) The course shall include, but not be limited to, discussion of changes in relevant laws, rules, and administrative regulations, new advisory opinions, current ethical issues and situations, and development of problem-solving skills.

(2) The course shall be designed for approval by the Tennessee commission on continuing legal education and specialization for continuing legal education ethics credits.

(c)

(1) Each member-elect of the general assembly shall attend one (1) orientation course; provided, that a member-elect who has already attended an orientation ethics course provided by the commission shall be exempt from this subdivision. The commission shall provide an orientation course for a member-elect who is elected in a special election within two (2) months of the member-elect taking office.

(2) Each member shall attend one (1) current issues seminar annually beginning the year after the member completes an orientation training course. A member may petition the commission to approve an ethics course other than a course offered by the commission to fulfill the current issues course requirement.

§ 3-18-111.

(a) The Tennessee ethics commission shall provide an ethics course in January of each year for lobbyists and lobbyist employers. Training shall include, but not be limited to, laws and rules governing the ethical conduct of members of the general assembly, administrative regulations, relevant internal policies, specific technical and legal requirements, and summaries of advisory opinions. The commission shall impose a fee for attending the ethics course that will enable participation in the course to be funded from the fee to the fullest extent possible.

(b) Each lobbyist shall attend one (1) ethics course annually. A lobbyist may petition the commission to approve an ethics course other than a course offered by the commission to fulfill the ethics course requirement.

(c) The course shall be designed for approval by the Tennessee commission on continuing legal education and specialization for continuing legal education ethics credits.

§ 3-18-112.

(a) Any citizen of Tennessee may file a sworn complaint executed on a form prescribed by the Tennessee ethics commission alleging an ethical violation within the jurisdiction of the commission.

(b) The commission may initiate a complaint upon its own motion.

(c) Within five (5) days after the filing of a complaint, the commission shall cause a copy of the complaint to be transmitted by return receipt requested mail to the member alleged to have committed the violation.

§ 3-18-113.

(a) All Tennessee ethics commission proceedings, including the complaint and answer and other records relating to a probable cause investigation, shall be exempt from the Tennessee Public Records Act, compiled in title 10, chapter 7 and shall be confidential either until the alleged violator requests in writing that such investigation and associated records and meetings be made public or upon a determination by the commission that probable cause exists to believe that a violation occurred. In no event shall any complaint pursuant to this chapter against a candidate in any general, special, or primary election, or records or other information related to the complaint, be disclosed on the day of any such election or thirty (30) days immediately preceding the commencement of early voting for the election.

(b) A complainant or other person with knowledge of information related to a preliminary investigation who knowingly discloses such information in violation of this

section commits a Class A misdemeanor. A member of the commission who violates this section is subject to § 3-18-103(k).

§ 3-18-114.

(a) The commission shall initiate a probable cause investigation of each sworn complaint that alleges facts, directly or upon information and belief, sufficient to constitute a violation within the jurisdiction of the commission. If the commission determines that the sworn complaint does not allege sufficient facts, the commission shall dismiss the complaint and notify the complainant.

(b) The commission shall refer a factually sufficient sworn complaint to the office of the attorney general and reporter who shall conduct a probable cause investigation. The commission shall make a probable cause determination after the office of the attorney general and reporter completes its investigation and reports its findings to the commission. The alleged violator shall be entitled, upon the alleged violator's request, to present evidence before the commission prior to the commission's probable cause determination. The commission has discretion to determine the appropriate procedure for the presenting of such evidence.

(1) If the commission determines that no probable cause exists to believe a violation within the jurisdiction of the commission occurred, the commission shall dismiss the complaint by issuing a report to the complainant and the alleged violator, stating with particularity its reasons for dismissal of the complaint. A complainant may request a hearing upon such determination. If after a requested hearing the commission determines that no probable cause exists, the commission shall order the complainant to reimburse the alleged violator for any reasonable costs and reasonable attorney fees the alleged violator has incurred.

(2) If the commission determines that probable cause exists to believe a violation within the jurisdiction of the commission occurred, the commission shall report its determination and recommendations to the ethics committee of the appropriate house.

§ 3-18-115.

(a) If the commission determines that a person has:

(1) Filed a complaint or provided information which resulted in an investigation knowing that the material statements in the complaint or the information provided were not true;

(2) Filed an unsubstantiated complaint in reckless disregard of the truth or falsity of the statements contained in the complaint; or

(3) Filed one or more unsubstantiated complaints which constituted abuse of process,

then the commission may administratively assess a civil penalty of not more than ten thousand dollars (\$10,000). In addition, such person is civilly liable to the alleged violator in an amount equal to the greater of ten thousand dollars (\$10,000) or the amount of actual damages incurred by the alleged violator, including reasonable costs and reasonable attorney fees.

SECTION 25. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 26. For purposes of promulgation of rules and regulations, creation and publication of forms, or acquisition of electronic filing software programs and any necessary computer hardware by the registry, the provisions of this act shall take effect upon becoming a

law, the public welfare requiring it. For all other purposes, the provisions of this act shall take effect July 1, 2006, the public welfare requiring it.